

UNITED CHRISTIAN MISSIONARY SOCIETY, UNITED CHURCH BOARD FOR WORLD MINISTERS, BOARD OF FOREIGN MISSION OF THE REFORMED CHURCH IN AMERICA, BOARD OF MISSION OF THE EVANGELICAL UNI...

G.R. Nos. L-26712-16. December 27, 1969

Ponente: TEEHANKEE, J.

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TEEHANKEE, J.:

In this appeal from an order of the Social Security Commission, we uphold the Commission's Order dismissing the petition before it, on the ground that in the absence of an express provision in the Social Security Act^[1] vesting in the Commission the power to condone penalties, it has no legal authority to condone, waive or relinquish the penalty for late premium remittances mandatorily imposed under the Social Security Act.

The five petitioners originally filed on November 20, 1964 separate petitions with respondent Commission, contesting the social security coverage of American missionaries who perform religious missionary work in the Philippines under specific employment contracts with petitioners. After several hearings, however, petitioners commendably desisted from further contesting said coverage, manifesting that they had adopted a policy of cooperation with the Philippine authorities in its program of social amelioration, with which they are in complete accord. They instead filed their consolidated amended petition dated May 7, 1966, praying for condonation of assessed penalties against them for delayed social security premium remittances in the aggregate amount of P69,446.42 for the period from September, 1958 to September, 1963.

In support of their request for condonation, petitioners alleged that they had labored under the impression that as international organizations, they were not subject to coverage under the Philippine Social Security system, but upon advice by certain Social Security System officials, they paid to the System in October, 1963, the total amount of P81,341.80, representing their back premiums for the period from September, 1958 to September, 1963. They further claimed that the penalties assessed against them appear to be inequitable, citing several resolutions of respondent Commission which in the past allegedly permitted condonation of such penalties.

On May 25, 1966, respondent System filed a Motion to Dismiss on the ground that "the Social Security Commission has no power or authority to condone penalties for late premium remittance, to which petitioners filed their opposition of June 15, 1966, and in turn, respondent filed its reply thereto of June 22, 1966.

Respondent Commission set the Motion to Dismiss for hearing and oral argument on July 20, 1966. At the hearing, petitioners' counsel made no appearance but submitted their Memorandum in lieu of oral argument. Upon petition of the System's counsel, the Commission gave the parties a further period of fifteen days to submit their Memorandum consolidating their arguments, after which the motion would be deemed submitted for decision. Petitioners stood on their original memorandum, and respondent System filed its memorandum on August 4, 1966.

On September 22, 1966, respondent Commission issued its Order dismissing the petition, as follows:

"Considering all of the foregoing, this Commission finds, and so holds, that in the absence of an express provision in the Social Security Act vesting in the Commission the power to condone penalties, it cannot legally do so. The policy enunciated in Commission Resolution No. 536, series of 1964, cited by the parties in their respective pleadings, has been reiterated in Commission Resolution No. 878, dated August 18, 1966, wherein the Commission adopting the recommendation of the Committee on Legal Matters and Legislation of the Social Security Commission ruled that it 'has no power to condone, waive or relinquish the penalties for late premium remittances which may be imposed under the Social Security Act.'

"WHEREFORE, the petition is hereby dismissed and petitioners are directed to pay the respondent System, within thirty (30) days from receipt of this Order, the amount of P69,446.42 representing the penalties payable by them, broken down as follows:

"United Christian Missionary Society	P5,253.53
Board of Mission of the Evangelical	
United Brothers Church.....	7, 891. 74
United Church Board for World Ministers.....	12,353.75
Commission on Ecumenical Mission &	
Relations.....	33,019. 36
Board of Foreign Mission of the Reformed	
Church in America.....	10, 928. 04
TOTAL	P69,446. 42

"Upon failure of the petitioners to comply with this 'Order within the period specified herein, a warrant shall be issued to the Sheriff of the Province of Rizal to levy upon and sell so much of the property of the petitioners as may be necessary to satisfy the aforesaid liability of the petitioners to the System. "

This Court is thus confronted on appeal with this question of first impression as to whether or not respondent Commission erred in ruling that it has no authority under the Social Security Act to condone the penalty prescribed by law for late premium remittances.

We find no error in the Commission's action.

1. The plain text and intent of the pertinent provisions of the Social Security Act clearly rule out petitioners' posture that the respondent Commission should assume, as against the mandatory imposition of the 3% penalty per month for late payment of premium remittances, the discretionary authority of condoning, waiving or relinquishing such penalty.

The pertinent portion of Section 22(a) of the Social Security Act peremptorily provides that:

"SEC. 22. Remittance of premiums. - (a) The contributions imposed in the preceding sections shall be remitted to the System within the first seven days of each calendar month following the month for which they are applicable or within such time as the Commission may prescribe. "Every employer required to deduct and to remit such contribution shall be liable for their payment and if any contribution is not paid to the System, as herein prescribed he shall pay besides the contribution a penalty thereon of three per centum per month from the date the contribution falls due until paid. x x "[2]

No discretion or alternative is granted respondent Commission in the enforcement of the law's mandate that the

employer who fails to comply with his legal obligation to remit the premiums to the System within the prescribed period shall pay a penalty of three (3%) per month. The prescribed penalty is evidently of a punitive character, provided by the legislature to assure that employers do not take lightly the State's exercise of the police power in the implementation of the Republic's declared policy "to develop, establish gradually and perfect a social security system which shall be suitable to the needs of the people throughout the Philippines and (to) provide protection to employers against the hazards of disability, sickness, old age and death." [3] In this concept, good faith or bad faith is rendered irrelevant, since the law makes no distinction between an employer who professes good reasons for delaying the remittance of premiums and another who deliberately disregards the legal duty imposed upon him to make such remittance. From the moment the remittance of premiums due is delayed, the penalty immediately attaches to the delayed premium payments by force of law.

Petitioners contend that in the exercise of the respondent Commission's power of direction and control over the system, as provided in Section 3 of the Act, it does have the authority to condone the penalty for late payment under Section 4(l), whereby it is empowered to "perform such other acts as it may deem appropriate for the proper enforcement of this Act." The law does not bear out this contention. Section 4 of the Social Security Act precisely enumerates the powers of the Commission. Nowhere from said powers of the Commission may it be shown that the Commission is granted expressly or by implication the authority to condone penalties imposed by the Act.

3. Moreover, the funds contributed to the System by compulsion of law have already been held by us to be "funds belonging to the members which are merely held in trust by the Government." [4] Being a mere trustee of the funds of the System which actually belong to the members, respondent Commission cannot legally perform any acts affecting the same including condonation of penalties, that would diminish the property rights of the owners and beneficiaries of such funds without an express or specific authority therefor.

4. Where the language of the law is clear and the intent of the legislature is equally plain, there is no room for interpretation and construction of the statute. The Court is therefore bound to uphold respondent Commission's refusal to arrogate unto itself the authority to condone penalties for late payment of social security premiums, for otherwise we would be sanctioning the Commission's reading into the law discretionary powers that are not actually provided therein, and hindering and defeating the plain purpose and intent of the legislature.

5. Petitioners cite fourteen instances in the past wherein respondent Commission had granted on donation of penalties on delayed premium payments. They charge the Commission with grave abuse of discretion in not having uniformly applied to their cases its former policy of granting condonation of penalties. They invoke more compelling considerations of equity in their cases, in that they are non-profit religious organizations who minister to the spiritual needs of the Filipino people, and that their delay in the payment of their premiums was not of a contumacious or deliberate defiance of the law but was prompted by a well-founded belief that the Social Security Act did not apply to their missionaries.

The past instances of alleged condonation granted by the Commission are not, however, before the Court, and the unilateral conclusion asserted by petitioners that the Commission had granted such condonations would be of no avail, without a review of the pertinent records of said cases. Nevertheless, assuming such conclusion to be correct, the Commission, in its appealed Order of September 22, 1966 makes of record that since its Resolution No. 536, series of 1964, which it reiterated in another resolution dated August 18, 1966, it had definitely taken the legal stand, pursuant to the recommendation of its Committee on Legal Matters and Legislation, that in the absence of an express provision in the Social Security Act vesting in the Commission the power to condone penalties, it "has no power to condone, waive or relinquish the penalties for late premium remittances which may be imposed under the Social Security Act."

6. The Commission cannot be faulted for this correct legal position. Granting that it had erred in the past in granting condonations of penalties without legal authority, the Court has held time and again that "it is a well-known rule that erroneous application and enforcement of the law by public officers do not block subsequent correct application of the statute and that the Government is never stopped by mistake or error on the part of its agents."⁵ Petitioners' lack of intent to deliberately violate the law may be conceded and was borne out by their later withdrawal in May, 1966 of their original petitions in November, 1964 contesting their social security coverage. The point, however, is that they followed the wrong procedure in questioning the applicability of the Social Security Act to them, in that they failed for five years to pay the premiums prescribed by law and thus incurred the 3% penalty thereon per month mandatorily imposed by law for late payment. The proper procedure would have been to pay the premiums and then, contest their liability therefor, thereby preventing the penalty from attaching. This would have been the prudent course, considering that the Act provides in Section 22 (b) thereof that the premiums which the employer refuses or neglects to pay may be collected by the System in the same manner as taxes under the National Internal Revenue Code, and that at the time they instituted their petitions in 1964 contesting their coverage, the Court had already ruled in effect against their contest three years earlier, when it held in *Roman Catholic Archbishop vs. Social Security Commission*⁶ that the legislature had clearly intended to include charitable and religious institutions and other non-profit institutions, such as petitioners, within the scope and coverage of the Social Security Act.

7. No grave abuse of discretion was committed, therefore, by the Commission in issuing its Order dismissing the petition for condonation of penalties for late payment of premiums, as claimed by petitioners in their second and last error assigned. Petitioners were duly heard by the Commission and were given due opportunity to adduce all their arguments, as in fact they filed their Memorandum in lieu of oral argument and waived the presentation of an additional memorandum. The mere fact that there was a pending appeal in the Court of Appeals from an identical ruling of the Commission in an earlier case as to its lack of authority to condone penalties does not mean, as petitioners contend, that the Commission was thereby shorn of its authority and discretion to dismiss their petition on the same legal ground.⁷ The Commission's action has thus paved the way for a final ruling of the Court on the matter.

ACCORDINGLY, the order appealed from is hereby affirmed, without pronouncement as to costs.

Concepcion, C.J., Reyes, Makalintal, Zaldivar, Sanchez, Castro, and Fernando, JJ., concur.

Dizon and Barredo, JJ., took no part.

[1] Republic Act No. 1161, as amended.

[2] Emphasis supplied.

[3] Section 2, Social Security Act; *Roman Catholic Archbishop vs. Social Security Commission*, 1 SCRA 10 (January 20, 1961)

[4] *Roman Catholic Archbishop vs. Social Security Commission* fn. 3.

5 *E. Rodriguez, Inc. vs. Collector of Internal Revenue*, 28 SCRA 1119, 1130 and cases cited (July 31, 1969).

6 Fn. 3.⁷

7 The case referred to is *Social Security System, appellee vs. Woodworks, Inc., appellant*, CA-G. R. No. 36668-R. The Court of Appeals therein upheld the Commission's ruling in its decision of October 20, 1969, Pursuant to its decisions in two other appealed cases, *Luzsteveco vs. SSC*, CA? G.R No. 38425-R, June 30, 1969 and *Carmelo &*

Bauermann, Inc. vs. SSS, CA-G. R. No. 39250-R, August 14, 1969, al-though it remanded the records of the case to the SSS to give the appellant an opportunity to go over the assessment schedules for the purpose only of determining the exact amount of penalties due.

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